

**UNITED STATES DEPARTMENT OF HOUSING AND URBAN  
DEVELOPMENT**

**TITLE VIII**

**CONCILIATION AGREEMENT**

**between**

U.S. Department of Housing and Urban Development  
(Complainant)

**and**

Cincinnati Metropolitan Housing Authority  
(Respondent)

**FHEO CASE NUMBER: 05-10-0147-8**

**C. TERM OF AGREEMENT**

1. This Conciliation Agreement (hereinafter "Agreement") shall govern the conduct of the parties for 3 years from the effective date of the Agreement.

**D. EFFECTIVE DATE**

2. The parties expressly agree that this Agreement constitutes neither a binding contract under state or federal law nor a Conciliation Agreement pursuant to the Act, unless and until such time as it is approved by the Assistant Secretary for Fair Housing and Equal Opportunity.
3. This Agreement shall become effective on the date on which it is approved by the Assistant Secretary for Fair Housing and Equal Opportunity.

**E. GENERAL PROVISIONS**

4. The parties acknowledge that this Agreement is a voluntary and full settlement of the disputed complaint, 05-10-0147-8. The parties affirm that they have read and fully understand the terms set forth herein. No party has been coerced, intimidated, threatened, or in any way forced to become a party to this Agreement.
5. Respondent and Mr. Barnett acknowledge that they have an affirmative duty not to discriminate under the Act. Respondent and Mr. Barnett also acknowledge that it is unlawful to retaliate against any person because that person has made a complaint, testified, assisted, or participated in any manner in a proceeding under the Act and that any subsequent retaliation constitutes both a material breach of this Agreement, and a statutory violation of the Act.
6. This Agreement, after it has been approved by the Assistant Secretary for Fair Housing and Equal Opportunity, is binding upon the parties, their employees, officers, agents, successors and assigns.
7. It is understood that, pursuant to Section 810(b)(4) of the Act, upon approval of this Agreement by the Assistant Secretary for Fair Housing and Equal Opportunity, it is a public document. It is not a public document until executed by the Assistant Secretary for Fair Housing and Equal Opportunity.
8. No amendment to, modification of, or waiver of any provisions of this Agreement shall be effective unless: (a) all parties or their successors to the Agreement agree in writing to the amendment, modification or waiver; (b) the amendment, modification or waiver is in writing; and (c) the amendment, modification, or waiver is approved and signed by the Assistant Secretary for Fair Housing and Equal Opportunity.

9. Respondent and Mr. Barnett, their employees, agents, officers, successors and assigns, including any entities or organizations controlled by them, hereby forever waive, release, and covenant not to sue the Department, its employees, agents, successors and assigns with regard to any and all claims, damages and injuries of whatever nature whether presently known or unknown, in connection with the subject matter of HUD Title VIII Case Number 05-10-0147-8 or which could have been filed in any action or suit arising from said subject matter, except where necessary to enforce this Agreement.

**F. RELIEF IN THE PUBLIC INTEREST**

10. In consideration of the promises and affirmative duties agreed to by Respondent and Mr. Barnett herein, the Department:
  - (i) will withdraw the subpoena *duces tecum* served on June 29, 2010 directing Mr. Barnett to produce documents and the subpoena served on July 13, 2010 directing Mr. Barnett to provide testimony;
  - (ii) will dismiss its Case Number 05-10-0147-8;
  - (iii) will not initiate any enforcement proceedings against Mr. Barnett, such as limited denial of participation, suspension or debarment, arising from the Department's Title VIII Case Number 05-10-0147-8; and
  - (iv) will not refer Mr. Barnett to the United States Department of Justice for an investigation or proceeding pursuant to 42 U.S.C § 3611(c) related to the investigation of Title VIII Case Number 05-10-0147-8, or the Department's related Title VI Case Numbers 05-09-0018-6, 05-09-0019-6 and 05-09-0017-6.
11. Mr. Barnett will not seek another appointment with Respondent after the Agreement becomes effective.
12. Mr. Barnett will not participate in any federally-funded programs for a period of three years from the effective date of this Agreement, during which time he will be registered with the Governmentwide Excluded Parties List System ("EPLS"). "Participate" as used in this Agreement means to be in a position of control or oversight over federal programs or funds or to be a party to a transaction or a contract to provide services in exchange for receiving federal funds. This Agreement does not prohibit Mr. Barnett from receiving the benefits of federally-funded programs available to the general public, entering into financial transactions concerning U.S.-backed financial instruments under terms available to the general public or receiving funds from federal programs after they are vested to him, such as receiving Social Security payments or purchasing and receiving interest payments from U.S. Treasury Bonds.
13. Mr. Barnett will, where necessary as determined in the sole discretion of the Department, serve as a witness and otherwise cooperate with the investigation of, and any subsequent enforcement actions concerning, any Title VI case

initiated by the Department or in any limited denial of participation, suspension or debarment case concerning Respondent or any of its employees, agents, commissioners, or other officers, including testifying under oath.

14. After his voluntary resignation, Mr. Barnett may only initiate communication on issues relating to activities of Respondent CMHA with Respondent or any of Respondent's sitting employees, agents, commissioners or other officers through official channels. "Official channels" means a way of communication available to the general public, such as contacting a hotline, employees officially authorized to communicate with the members of the general public or attending and speaking at public meetings or town hall sessions hosted by Respondent or its authorized employees, agents, commissioners or officers.
15. Mr. Barnett will not, acting alone or through his employees, agents, officers, successors and/or assigns, including any entities or organizations controlled by him, file or threaten a lawsuit against Robert Newman; any current or former employee, agent, commissioner or other officer, successor or assign of Respondent; or Respondent's contractors, their employees, agents, officers, successors or assigns, including, but not limited to, KMK Consulting Company, LLC, if such lawsuit, threatened or filed, arises out of the Department's investigation in connection with HUD Title VIII Case Numbers 05-10-0147-8 or with HUD Title VI Case Numbers 05-09-0018-6, 05-09-0019-6 and 05-09-0017-6.
16. This Agreement is contingent on the successful conclusion of an agreement between Mr. Barnett and Mr. Newman resulting in the dismissal of HUD Title VIII Case Number 05-09-1806-8. In the event that the agreement between Mr. Barnett and Mr. Newman, resolving Title VIII Case Number 05-09-1806-8 does not result in a dismissal of the appeal, or results but does not contain a provision related to the appeal, currently filed with the Ohio appellate court, Case Number C 1000428, Mr. Barnett agrees to dismiss with prejudice his appeal filed on June 25, 2010, with the state appellate court (Case Number C1000428) of the decision dismissing his defamation lawsuit against Robert Newman filed with the Ohio Court of Common Pleas, Case Number A 09 08878.
17. This Agreement does not in any way limit or restrict the Department's authority to investigate any other ongoing or future complaint involving Respondent made pursuant to the Act, specifically including, but not limited to, Title VIII case numbers 05-09-1806-8, 05-09-1868-8, 05-09-1865-8, and 05-09-1867-8.
18. This Agreement does not in any way limit or restrict the Department's authority to investigate any other complaint within the Department's jurisdiction, specifically including, but not limited to, Title VI Case Numbers 05-09-0018-6, 05-09-0019-6 and 05-09-0017-6 or any other existing or future Title VI case initiated by the Department or any other enforcement action against Respondent, or any potential limited denial of participation, suspension or debarment action

against Respondent or any of its employees, other commissioners or other officers, agents or assigns

19. Notwithstanding the language of Provision 11, this Agreement does not in any way limit or restrict the Department's authority to investigate and/or charge any other ongoing or future complaint involving Mr. Barnett made by a third party pursuant to the Act. Furthermore, this Agreement does not in any way limit or restrict the Department's authority to initiate a Title VIII complaint or to take any enforcement action against Mr. Barnett within the Department's jurisdiction, including limited denial of participation, suspension or debarment, on matters outside the Department's investigation conducted in connection with HUD Title VIII case 05-10-0147-8.

#### **G. MONITORING**

20. The Department shall determine compliance with the terms of this Agreement. During the term of this Agreement, HUD may review compliance with this Agreement. As part of such review, HUD may request and examine relevant records of Respondent and Mr. Barnett, who agree to provide full cooperation in any monitoring review.

#### **H. REPORTING AND RECORDKEEPING**

21. Mr. Barnett agrees to provide updated contact information to the Department for three years after the effective date of the Agreement. Mr. Barnett is deemed to be in compliance with this Provision as long as he provides and maintains current contact information of an attorney authorized to represent him in lieu of his personal contact information.
22. All required documentation of compliance and future communications must be directed to:

Director, Office of Fair Housing and Equal Opportunity, Region V  
U.S. Department of Housing & Urban Development  
Region V, Office of Fair Housing and Equal Opportunity  
77 W. Jackson Blvd., Rm 2101  
Chicago, IL 60604

#### **I. CONSEQUENCES OF BREACH**

23. If the Department determines that Respondent has breached its obligations under this Agreement, including not fulfilling the conditions that form the basis of this Agreement, the Department shall refer the matter to the Attorney General of the United States, to commence a civil action against Respondent in the appropriate U. S. District Court, pursuant to §§ 810(c) and 814(b)(2) of the Act, or the

Assistant Secretary for FHEO may, in his sole discretion, take other action administratively.

24. If the Department determines that Mr. Barnett has breached his obligations under this Agreement, including not fulfilling the conditions that form the basis of this Agreement, the Department shall refer the matter to the Attorney General of the United States, to commence a civil action against Mr. Barnett in the appropriate U. S. District Court, pursuant to §§ 810(c) and 814(b)(2) of the Act, or the Assistant Secretary for FHEO may, in his sole discretion, take other action administratively.

25. In case of a breach, the Department will be entitled to all remedies and relief available under law, including the right to resume investigations and take enforcement actions it agreed to dismiss or not pursue in this Agreement. In such cases, Respondent and Mr. Barnett will not raise any defense based on theories of equity or the statute of limitations.


#### J. SIGNATURES

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John Trasviña, Assistant Secretary  
Office of Fair Housing and Equal Opportunity

\_\_\_\_\_  
Date

\_\_\_\_\_  
On behalf of Cincinnati Metropolitan Housing Authority

\_\_\_\_\_  
Date

  
\_\_\_\_\_  
Arnold Barnett

\_\_\_\_\_  
Date

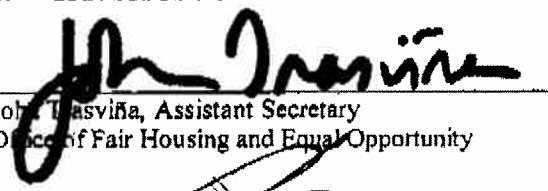
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Assistant Secretary for FHEO may, in his sole discretion, take other action administratively.

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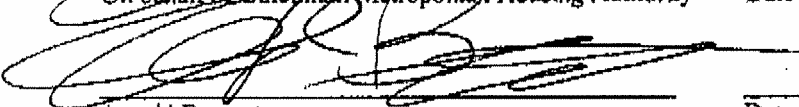
J. SIGNATURES

  
John Lasviña, Assistant Secretary  
Office of Fair Housing and Equal Opportunity

8/19/2010  
Date

  
On behalf of Cincinnati Metropolitan Housing Authority

8/19/2010  
Date

  
Arnold Barnett

\_\_\_\_\_  
Date